


FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

2016 APR 13 AM 9:01
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SO. DIST. OF GA.

LILLIE M. EUBANK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. CV416-054
CR414-005

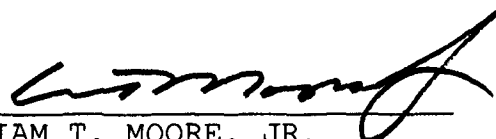
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 2), to which Petitioner has filed an objection (Doc. 4). In her objection, Petitioner first asserts that "[i]t is questionable why a person that knew she would receive a "LIFE" sentence would sign such a "Notice". (Doc. 4 at 2.) However, this hypothetical question is not evidence of whether Petitioner's attorney was ineffective in light of her signed Notice of Post-Conviction Consultation Certification. Second, Plaintiff appears to claim that the appeal waiver she agreed to in her plea agreement (Doc. 359)¹ was the product of ineffective assistance of counsel. However, Petitioner's only support for this claim is an October 14, 2014 Department of Justice ("DOJ") Memorandum which indicates

¹ Record cite is to the criminal docket in CR414-005.

that the DOJ will no longer seek to enforce plea waivers prohibiting a Defendant from collaterally attacking a conviction based on ineffective assistance of counsel. (Doc. 4, Attach. 1.) However, Petitioner's plea agreement comports with this requirement as it does not prohibit her from collaterally attacking her conviction on the basis of ineffective assistance of counsel. (Doc. 359 at 13.) Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case. As a result, Petitioner's 28 U.S.C. § 2255 motion is **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal. The Clerk of Court is **DIRECTED** to close this case.

SO ORDERED this 12th day of April 2016.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA